

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ILLINOIS**

**IN RE: PRADAXA (DABIGATRAN
ETEXILATE) PRODUCTS LIABILITY
LITIGATION**

)
) **3:12-md-02385-DRH-SCW**
)
) **MDL No. 2385**
)
)

This Document Relates to:

ALL CASES

**CASE MANAGEMENT ORDER NUMBER 5
Appointing Defendants' Leadership Positions**

HERNDON, Chief Judge:

I. Defendants' Leadership Counsel¹ Appointments

The Court **APPOINTS** the following attorneys as Defendants' Leadership Counsel:

A. As to the "U.S. Defendants" (Boehringer Ingelheim Pharmaceuticals, Inc.,
Boehringer Ingelheim USA Corporation, Boehringer Ingelheim Corporation,
Boehringer Ingelheim Vetmedica, Inc., and Boehringer Ingelheim Roxane, Inc.) the
Court makes the following appointments:

1. Orlando Rod Richmond, Lead Counsel
2. Dan Ball, Co-Liaison Counsel
3. Eric Hudson, Co-Liaison Counsel

¹ As used herein, the term "Defendants' Leadership Counsel" refers to both Lead and Liaison Counsel

B. As to the “Foreign Defendants” (Boehringer Ingelheim International GmbH, Boehringer Ingelheim Pharma GmbH & Co. KG, and Bidachem S.p.A.) the Court appoints Beth S. Rose as Lead and Liaison Counsel.

II. Responsibilities

1. As noted in Case Management Order Number 1 (Doc. 4), the clerk of this Court will maintain a master docket case file under the style “*In Re: Pradaxa (Dabigatran Etexilate) Products Liability Litigation*” and the identification “MDL No. 2385.” The Master Docket will only include documents relating to “All Cases.”

2. Only Lead and Liaison Counsel shall be included on the Master Docket as being Counsel of Record. Accordingly, Lead and Liaison Counsel will be (a) the only attorneys permitted to file in the Master Docket and (2) the only attorneys receiving Notices of Electronic Filing for pleadings and orders filed in the Master Docket. After this Order has been docketed, the Clerk of the Court shall revise the Master Docket accordingly.

3. The responsibilities specific to Defendants’ Liaison Counsel shall be the following:

- a. To serve as the recipient for all Court Orders on behalf of Defendants.
- b. To coordinate service and filings for Defendants whether presently included or subsequently added.
- c. To maintain and distribute to co-counsel and to Plaintiffs’ Counsel an up-to-date service list.

- d. To receive and distribute pleadings, orders, and motions by overnight courier service and/or telecopier within two days after receipt, unless such service has been waived, in writing, by a receiving counsel (until some program for electronic service has been established).
- e. To coordinate the establishment of a document depository, real or virtual, to be available to all participating defendants' counsel.
- f. To maintain and make available to all participating defendants' counsel of record at reasonable hours a complete file of all documents served by or upon each party (except such documents as may be available at a document depository);
- g. To prepare agendas for court conferences and periodically report regarding the status of the case.
- h. To carry out such other duties as the Court may order.

4. The responsibilities of Defendants' Leadership Counsel shall be the following:

a. Discovery

- i. Initiate, coordinate, and conduct all pretrial discovery on behalf of defendants in all actions which are consolidated with this multi district litigation.
- ii. Develop and propose to the Court schedules for the commencement, execution and completion of all discovery on behalf of defendants.

- iii. Cause to be issued in the name of the defendants the necessary discovery requests, motions and subpoenas pertaining to any witnesses and documents needed to properly prepare for the pretrial of relevant issues found in the pleadings of this litigation.
- iv. Conduct all discovery in a coordinated and consolidated manner on behalf and for the benefit of all defendants.

b. Hearings and Meetings

- i. Call meetings of counsel for defendants for any appropriate purpose, including coordinating responses to questions of other parties or of the Court. Initiate proposals, suggestions, schedules or joint briefs, and any other appropriate matters pertaining to pretrial proceedings.
- ii. Examine witnesses and introduce evidence on behalf of defendants at hearings.
- iii. Act as spokesperson for defendants at pretrial proceedings and in response to any inquiries by the Court, subject of course to the right of any defendant's counsel to present non-repetitive individual or different positions

c. Miscellaneous

- i. Submit and argue all verbal or written motions presented to the Court or Magistrate on behalf of defendants as well as oppose when necessary any motions submitted by plaintiffs or other parties which

involve matters within the sphere of Defendants' Leadership Counsel's responsibilities.

- ii. Negotiate and enter into stipulations with plaintiffs regarding this litigation. All stipulations entered into by Defendants' Leadership Counsel, except for strictly administrative details such as scheduling, must be submitted for Court approval and will not be binding until ratified by the Court. Any attorney not in agreement with a non-administrative stipulation shall file with the Court a written objection within 5 days after he/she knows or should have reasonably become aware of the stipulation. Failure to object within the term allowed shall be deemed a waiver and the stipulation will automatically be binding on that party.
- iii. Explore, develop and pursue all settlement options pertaining to any claim or portion thereof of any case filed in this litigation.
- iv. Maintain adequate files of all pretrial matters, including establishing and maintaining a document or exhibit depository, in either real or virtual format, and having those documents available, under reasonable terms and conditions for examinations by all MDL defendants or their attorneys.
- v. Perform any task necessary and proper for Defendants' Leadership Counsel to accomplish its responsibilities as defined by the Court's Orders.

- vi. Perform other such functions that may be expressly authorized by further Court Orders.

5. Lastly, The Court **DIRECTS** the Clerk of the Court to:

- a. Revise the Master Docket to identify Defendants' Lead and Liaison Counsel as the only Counsel of Record for the MDL 2385 Master Docket.
- b. Ensure that Lead and Liaison Counsel are identified as Counsel of Record in current and later filed individual member actions.

SO ORDERED

 Digitally signed by
David R. Herndon
Date: 2012.09.27
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Chief Judge
United States District Court

Date: September 27, 2012